



## APPENDIX.

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### Copy of Statutes Involved.

#### **TITLE 11 U. S. C., CHAPTER VII, SECTION 103.**

##### SECTION 63.

Debts which may be proved.—a. Debts of the bankrupt may be proved and allowed against his estate which are founded upon (I) a fixed liability, as evidenced by a judgment or an instrument in writing, absolutely owing at the time of the filing of the petition by or against him, whether then payable or not, with any interest thereon which would have been recoverable at that date or with a rebate of interest upon such as were not then payable and did not bear interest. \* \* \*

#### **Further Excerpts from Municipal Bankruptcy Act.**

#### **TITLE 11, U. S. C., CHAPTER IX.**

##### SECTION 82. *Definitions.*

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“The term ‘security’ shall include bonds, notes, judgments, claims, and demands, liquidated or unliquidated, and other evidences of indebtedness, either secured or unsecured, and certificates of beneficial interest in property.”

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##### SECTION 83. *Compositions—(a) Petition; plan of composition; creditors.*

“Any petitioner may file a petition hereunder stating that the petitioner is insolvent or unable to meet its debts as they mature and that it desires to effect a plan for the composition of its debts. The petition shall be filed with the court in whose territorial juris-

diction the petitioner or the major part thereof is located, and, in the case of any unincorporated tax or special assessment district having no officials of its own, the petition may be filed by its governing authority or the board or body having authority to levy taxes or assessments to meet the obligations to be affected by the plan of composition. The petition shall be accompanied by payment to the clerk of a filing fee of \$100, which shall be in lieu of the fees required to be collected by the clerk under other applicable chapters of the Uniform Bankruptcy Act of 1898, as amended. The petition shall state that a plan of composition has been prepared, is filed and submitted with the petition, and that creditors of the petitioner owning not less than 51 per centum in amount of the securities affected by the plan (excluding, however, any such securities owned, held, or controlled by the petitioner), have accepted it in writing. There shall be filed with the petition a list of all known creditors of the petitioner, together with their addresses so far as known to petitioner, and description of their respective securities showing separately those who have accepted the plan of composition, together with their separate addresses, the contents of which list shall not constitute admissions by the petitioner in a proceeding under this chapter or otherwise. Upon the filing of such a petition the judge shall enter an order either approving it as properly filed under this chapter, if satisfied that such petition complies with this chapter and has been filed in good faith, or dismissing it, if not so satisfied."

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#### SECTION 83(b). *Hearing.*

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"If, however, the material allegations of the petition are sustained, the judge shall classify the creditors according to the nature of their respective claims and interests: Provided, however, That the holders of all claims, regardless of the manner in which they

are evidenced, which are payable without preference out of the funds derived from the same source or sources shall be of one class.”

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SECTION 83(e). *Confirmation of plan; dismissal of proceedings if profit to person promoting composition appears; modification; appeal.*

“Before concluding the hearing, the judge shall carefully examine all of the contracts, proposals, acceptances, deposit agreements, and all other papers relating to the plan, specifically for the purpose of ascertaining if the fiscal agent, attorney, or other person, firm, or corporation promoting the composition, or doing anything of such a nature, has been or is to be compensated, directly or indirectly, by both the petitioner and the creditors thereof, or any of such creditors—either by fee, commission, or other similar payment, or by transfer or exchange of bonds or other evidence of indebtedness whereby a profit could accrue—and shall take evidence under oath to make certain whether or not any such practice obtains or might obtain.

“After such examination the judge shall make an adjudication of this issue, as a separate part of his interlocutory decree, and if it be found that any such practice be possible, he shall forthwith dismiss the proceeding and tax all of the costs against such fiscal agent, attorney, or other person, firm or corporation promoting the composition, or doing anything of such a nature, or against the petitioner, unless such plan be modified within the time to be allowed by the judge so as to eliminate the possibility of any such practice, in which event the judge may proceed to further consideration of the confirmation of the plan. If it be found that no such practice is possible, then the judge may proceed to further consideration of the confirmation of the plan.

“At the conclusion of the hearing, the judge shall make written findings of fact and his conclusions of

law thereon, and shall enter an interlocutory decree confirming the plan if satisfied that (1) it is fair, equitable, and for the best interests of the creditors and does not discriminate unfairly in favor of any creditor or class of creditors; (2) complies with the provisions of this chapter; (3) has been accepted and approved as required by the provisions of subdivision (d) of this section; (4) all amounts to be paid by the petitioner for services or expenses incident to the composition have been fully disclosed and are reasonable; (5) the offer of the plan and its acceptance are in good faith; and (6) the petitioner is authorized by law to take all action necessary to be taken by it to carry out the plan. If not so satisfied, the judge shall enter an order dismissing the proceeding."

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SECTION 83(j). *Effect of partial completion or execution of plan.*

"The partial completion or execution of any plan of composition as outlined in any petition filed under the terms of this Act by the exchange of new evidences of indebtedness under the plan for evidences of indebtedness covered by the plan, whether such partial completion or execution of such plan of composition occurred before or after the filing of said petition, shall not be construed as limiting or prohibiting the effect of this Act, and the written consent of the holders of any securities outstanding as the result of any such partial completion or execution of any plan of composition shall be included as consenting creditors to such plan of composition in determining the percentage of securities affected by such plan of composition."

## NORTH CAROLINA CODE OF 1939.

### SECTION 1334 (11).

*Maturities of bonds.*—All bonds shall mature as hereinafter provided, and no funding or refunding bonds shall mature after the expiration of the period herein fixed for such bonds, respectively; and no other bonds shall mature after the expiration of the period estimated by the governing body as the life of the improvement for which the bonds are issued, each such period to be computed from a day not later than one year after the passage of the order. Such periods shall not exceed the following for the respective classes of bonds:

(a), (b) Funding or refunding bonds, fifty years.

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*Editor's Note.*—The Act of 1929 added subsections (i) and (j) to this section. The Act of 1931 struck out clauses (a) and (b) and inserted in lieu thereof clause (a), (b).

Prior to Public Laws 1933, c. 259, subsection (a) of this section provided for thirty years in case the debt was less than ten per cent of the assessed valuation of property in the county and fifty years in other cases.

### Chapter 203—North Carolina Public Laws 1939.

That with the approval of the Local Government Commission of North Carolina and with the consent of the holders of such percentage or percentages of its indebtedness as may be required by Public Act Number three hundred two of the Seventy-fifth Congress, First Session, entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States' approved July first, one thousand eight hundred

ninety-eight and Acts amendatory thereof and supplementary thereto," approved August sixteenth, one thousand nine hundred thirty-seven, as amended, any taxing district, local improvement district, school district, county, city, town or village in the State of North Carolina is authorized to avail itself of the provisions of said Act of Congress as said Act now exists or may be hereafter amended.

